

**ASSEMBLY, No. 460**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

**Sponsored by:**

**Assemblyman JOE DANIELSEN**

**District 17 (Middlesex and Somerset)**

**Assemblyman STERLEY S. STANLEY**

**District 18 (Middlesex)**

**SYNOPSIS**

Allows municipalities to transfer inactive alcoholic beverage retail licenses for use in redevelopment, improvement, or revitalization areas under certain circumstances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1    **AN ACT** concerning alcoholic beverage licensing, supplementing  
2       Title 33 of the Revised Statutes, and amending P.L.1977, c.246.

3

4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7       1. (New section) As used in this act:

8       “Host municipality” means a municipality from which an  
9 inactive license is issued pursuant to P.L. , c. (C. ) (pending  
10 before the Legislature as this bill) to the governing body of a  
11 receiving municipality as part of an economic redevelopment plan  
12 or in connection with a premises located within a redevelopment,  
13 improvement, or revitalization area.

14       “Inactive license” means a plenary retail consumption license  
15 that has been placed on inactive status and renewed as authorized  
16 by the provisions of R.S.33:1-12.39 for a two year period.

17       “Receiving municipality” means a municipality that enters into  
18 an agreement to acquire an inactive plenary retail consumption  
19 license from a host municipality as part of an economic  
20 redevelopment plan or in connection with a premises located within  
21 a redevelopment, improvement, or revitalization area pursuant to  
22 P.L. , c. (pending before the Legislature as this bill).

23       “Redevelopment, improvement, or revitalization area” means an  
24 urban enterprise zone designated pursuant to P.L.1983, c.303  
25 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); a  
26 downtown business improvement zone designated pursuant to  
27 P.L.1998, c.115 (C.40:56-71.1 et seq.); a pedestrian mall or  
28 pedestrian mall improvement or special improvement district as  
29 defined in section 2 of P.L.1972, c.134 (C.40:56-66); a transit  
30 oriented development as defined by section 2 of P.L.2011, c.149  
31 (C.34:1B-243); an area determined to be in need of redevelopment  
32 pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and  
33 40A:12A-22); or an area determined to be in need of rehabilitation  
34 pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14), or any  
35 improvement which is 100 percent new construction, which is an  
36 entirely new improvement not previously occupied or used for any  
37 purpose.

38

39       2. (New section) a. A governing board or body of a host  
40 municipality that is authorized to issue a new plenary retail  
41 consumption licenses shall be entitled to offer the license at public  
42 sale pursuant to P.L.1981, c.416 (C.33:1-19.3 et seq.) or offer the  
43 license at public sale to the highest bidding governing body of any  
44 other municipality in this State.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 A license transferred to a receiving municipality pursuant to this  
2 section only shall be used in connection with a premises as part of  
3 an economic redevelopment plan or located within a redevelopment,  
4 improvement, or revitalization area as defined in section 1 of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill).  
6 The host municipality shall not be entitled to issue a new license  
7 pursuant to P.L.1975, c.275 (C.33:1-19.1 et seq.) to replace the  
8 license transferred to the receiving municipality pursuant to this  
9 section.

10 b. Notice of the public sale shall be provided to the director and  
11 other municipalities at least 90 days prior to the sale. The notice to  
12 the municipalities shall specify the minimum acceptable bid and  
13 general conditions of sale including a statement that the transferring  
14 municipality reserves the right to reject all bids where the highest  
15 bid is not accepted.

16 The funds derived from the sale shall be remitted to the  
17 municipal treasurer for the general use of the host municipality.

18 c. A receiving municipality that acquires a license pursuant to  
19 subsection a. of this section shall be entitled to offer the license at  
20 public sale pursuant to P.L.1975, c.275 (C.33:1-19.1 et seq.).

21 d. A license issued by the receiving municipality to a qualified  
22 bidder that is not actively used in connection with the operation of a  
23 premises within two years of the issuance date shall expire and shall  
24 not be reissued by the receiving municipality. The license holder  
25 shall not be entitled to appeal the expiration of the license to the  
26 director or a court of law unless the license holder has been  
27 deprived of the use of the licensed premises as a result of eminent  
28 domain, fire, or other casualty, and establishes by affidavit filed  
29 with the director that the license holder is making a good faith  
30 effort to resume active use of the license in connection with the  
31 operation of a licensed premises.

32 e. A receiving municipality shall not be entitled to acquire more  
33 than one license pursuant to this section each calendar year.

34 f. No person who would fail to qualify as a licensee under Title  
35 33 of the Revised Statutes shall be permitted to hold an interest in a  
36 license transferred under the provisions of this section.

37 g. Licenses transferred pursuant to the provisions of this  
38 section shall be subject to all the provisions of Title 33 of the  
39 Revised Statutes, rules and regulations promulgated by the director,  
40 and municipal ordinances.

41 h. A license issued pursuant to this section shall not be included  
42 in the total combined population necessary to issue a new plenary  
43 retail consumption or seasonal retail consumption license pursuant  
44 to section 2 of P.L.1947, c.94 (C.33:1-12.14).

45

46 3. (New section) a. The holder of an inactive plenary retail  
47 consumption license issued by a host municipality may apply to the  
48 governing bodies of the host municipality and a contiguous

1 receiving municipality to use the license in connection with a  
2 premises located in the contiguous receiving municipality. An  
3 inactive plenary retail consumption license used in a contiguous  
4 receiving municipality only shall be used as part of an economic  
5 redevelopment plan or in connection with a premises located within  
6 a redevelopment, improvement, or revitalization area. A license  
7 used in the contiguous receiving municipality pursuant to this  
8 section shall remain in the receiving municipality permanently and  
9 shall not be transferred to any other municipality. The host  
10 municipality shall not be entitled to issue a new license pursuant to  
11 P.L.1975, c.275 (C.33:1-19.1 et seq.) to replace the license  
12 transferred to the receiving municipality pursuant to this section.

13 b. The issuing and receiving municipality shall submit to the  
14 director notice of the intent to transfer a license at least 90 days  
15 prior to the transfer. The issuing and receiving municipalities shall  
16 adopt by majority vote identical resolutions authorizing the transfer  
17 of the license. The identical resolutions shall establish the license  
18 transfer fee, which shall be paid by the license holder and deposited  
19 in the general fund of the host municipality. Prior to adopting the  
20 resolution pursuant to this section, the governing body of both  
21 municipalities shall give special consideration as to whether  
22 sufficient attempts were made by the license holder to use or  
23 transfer the license for use in connection with a premises located in  
24 the host municipality.

25 c. A license transferred to a receiving municipality pursuant to  
26 this section that is not actively used in connection with the  
27 operation of a premises within two years of the transfer date shall  
28 expire and shall not be reissued by the receiving municipality. The  
29 license holder shall not be entitled to appeal the expiration of the  
30 license to the director or a court of law unless the license holder has  
31 been deprived of the use of the licensed premises as a result of  
32 eminent domain, fire, or other casualty, and establishes by affidavit  
33 filed with the director that the license holder is making a good faith  
34 effort to resume active use of the license in connection with the  
35 operation of a licensed premises.

36 d. A receiving municipality shall not be entitled to acquire  
37 more than one license pursuant to this section in each calendar year.

38 e. Licenses transferred pursuant to the provisions of this  
39 section shall be subject to all the provisions of Title 33 of the  
40 Revised Statutes, rules and regulations promulgated by the director,  
41 and municipal ordinances.

42 f. A license issued pursuant to this section shall not be  
43 included in the total combined population necessary to issue a new  
44 plenary retail consumption or seasonal retail consumption license  
45 pursuant to section 2 of P.L.1947, c.94 (C.33:1-12.14).

46  
47 4. (New section) a. A receiving municipality in which the  
48 number of plenary retail consumption licenses has reached the

1 population limitation established in section 2 of P.L.1947, c.94  
2 (C.33:1-12.14) may issue a request for proposal to acquire from a  
3 license holder an additional inactive plenary retail consumption  
4 license that was initially issued by any other host municipality in  
5 this State. The inactive license acquired pursuant to this section  
6 shall be used in connection with a premises as part of an economic  
7 redevelopment plan or a redevelopment, improvement, or  
8 revitalization area.

9 b. The request for proposal issued pursuant to subsection a. of  
10 this section shall specify a time and date after which no further  
11 applications from license holders will be accepted. The request  
12 shall be published in a newspaper circulating generally throughout  
13 the State by not less than two insertions, one week apart, the second  
14 of which shall be made not less than 30 days prior to the time and  
15 date specified in the notice as the time and date after which no  
16 further applications will be accepted. In addition, the request for  
17 proposal shall be published by the governing body on the official  
18 Internet website of the receiving municipality. The request for  
19 proposal shall require that all bids shall be sealed and remain  
20 confidential to other bidders. Notwithstanding the provisions of  
21 section 1 of P.L.1981, c. 416 (C.33:1-19.3) the license shall be  
22 awarded to the lowest qualified bidder.

23 c. The holder of an inactive plenary retail consumption license  
24 shall apply to the governing body of the host municipality for  
25 permission to transfer the inactive plenary retail consumption  
26 license from the host municipally prior to submitting a bid in  
27 response to the request for proposal. The governing body of the host  
28 municipality may approve the application only by a resolution adopted  
29 by a majority vote. The host municipality shall not require the  
30 applicant to disclose the location of the proposed licensed premises.

31 After the receiving municipality accepts a successful bid, the  
32 host municipality shall submit to the director notice of the intent to  
33 transfer a license at least 90 days prior to the transfer. The host and  
34 receiving municipalities shall adopt by majority vote identical  
35 resolutions authorizing the transfer of the license. The identical  
36 resolutions shall establish the license transfer fee, which shall be  
37 paid by the license holder and deposited in the general fund of the  
38 host municipality. Prior to adopting the resolution pursuant to this  
39 section, the governing body of both municipalities shall give special  
40 consideration as to whether sufficient attempts were made by the  
41 license holder to use or transfer the license for use in connection  
42 with a premises located in the host municipality.

43 d. A receiving municipality that acquires a license pursuant to  
44 subsection a. of this section shall be entitled to offer the license at  
45 public sale pursuant to P.L.1975, c.275 (C.33:1-19.1 et seq.). A  
46 license issued by the receiving municipality to a qualified bidder  
47 that is not actively used in connection with the operation of a  
48 premises within two years of the issuance date shall expire and shall

1 not be reissued by the receiving municipality. The license holder  
2 shall not be entitled to appeal the expiration of the license to the  
3 director or a court of law unless the license holder has been  
4 deprived of the use of the licensed premises as a result of eminent  
5 domain, fire, or other casualty, and establishes by affidavit filed  
6 with the director that the license holder is making a good faith  
7 effort to resume active use of the license in connection with the  
8 operation of a licensed premises.

9 e. A receiving municipality shall not be entitled to acquire  
10 more than one license pursuant to this section in each calendar year.

11 f. Licenses transferred pursuant to the provisions of this  
12 section shall be subject to all the provisions of Title 33 of the  
13 Revised Statutes, rules and regulations promulgated by the director,  
14 and municipal ordinances.

15 g. A license issued pursuant to this section shall not be included  
16 in the total combined population necessary to issue a new plenary  
17 retail consumption or seasonal retail consumption license pursuant  
18 to section 2 of P.L.1947, c.94 (C.33:1-12.14).

19  
20 5. Section 1 of P.L.1977, c.246 (C.33:1-12.39) is amended to  
21 read as follows:

22 1. **[No]** a. Following the effective date of P.L. \_\_\_\_\_,  
23 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill), a Class  
24 C license [ , ] as [the same is] defined in R.S.33:1-12 [ , ] shall not  
25 be renewed if the [same] license has not been actively used in  
26 connection with the operation of a licensed premises within a period  
27 of two years [prior to the commencement date of the license period  
28 for which the renewal application is filed unless the director, for  
29 good cause and after a hearing, authorizes a further application for  
30 one or more renewals within a stated period of years; provided,  
31 however that, if] . A license that remains inactive at the end of the  
32 two-year period shall expire. Prior to the expiration of a plenary  
33 retail consumption license pursuant to this subsection, the license  
34 holder may transfer the license for use as part of an economic  
35 redevelopment plan or in connection with a redevelopment,  
36 improvement, or revitalization area pursuant to P.L. \_\_\_\_\_, c.  
37 (C. \_\_\_\_\_) (pending before the Legislature as this bill).

38 b. A license shall not expire pursuant to subsection a. of this  
39 section if the licensee has been deprived of the use of the licensed  
40 premises as a result of eminent domain, fire or other casualty, and  
41 establishes by affidavit filed with the director that [he] the licensee  
42 is making a good faith effort to resume active use of the license in  
43 connection with the operation of a licensed premise then the period  
44 of two years provided for in this section shall be automatically  
45 extended for an additional period of two years.

1 Any request for relief under this section shall be accompanied by  
2 a nonreturnable filing fee of **【\$100.00】** \$100 payable to the  
3 director.  
4 (cf: P.L.1996, c.127, s.1)

5  
6 6. This act shall take effect on the first day of the seventh  
7 month following the date of enactment.  
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9

#### 10 STATEMENT

11  
12 This bill establishes several procedures by which a plenary retail  
13 consumption license, generally issued to bars and restaurants, may  
14 be transferred for use as part of an economic redevelopment plan or  
15 in connection with premises located in a redevelopment,  
16 improvement, or revitalization area located in another municipality.  
17 The bill defines “redevelopment, improvement, or revitalization  
18 area” as an urban enterprise zone; a downtown business  
19 improvement zone; a pedestrian mall or pedestrian mall  
20 improvement or special improvement district; a transit oriented  
21 development; an area determined to be in need of redevelopment;  
22 an area determined to be in need of rehabilitation; or any  
23 improvement which is 100 percent new construction, which is an  
24 entirely new improvement not previously occupied or used for any  
25 purpose.

26 Under current law, a municipality may issue plenary retail  
27 consumption licenses until the combined total number in the  
28 municipality is fewer than one license for each 3,000 municipal  
29 residents. This bill allows a municipality that is entitled to issue an  
30 additional plenary retail consumption license to offer the license at  
31 public sale to the highest bidding governing body of any other  
32 municipality in this State. A license transferred to a receiving  
33 municipality pursuant to this section only is to be used in  
34 connection with a premises as part of an economic redevelopment  
35 plan or located within a redevelopment, improvement, or  
36 revitalization area. The bill requires the host municipality to  
37 provide notice of the public sale to the director and other  
38 municipalities at least 90 days prior to the sale. The notice to the  
39 municipalities is to specify the minimum acceptable bid and general  
40 conditions of sale including a statement that the transferring  
41 municipality reserves the right to reject all bids where the highest  
42 bid is not accepted. The funds derived from the sale are to be  
43 remitted to the municipal treasurer for the general use of the host  
44 municipality. A receiving municipality that acquires the license  
45 would be entitled to offer the license at public sale. A license  
46 issued by the receiving municipality to a qualified bidder that is not  
47 actively used in connection with the operation of a premises within  
48 two years of the issuance date is to expire and not be reissued by the

1 receiving municipality. The receiving municipality would be  
2 prohibited from acquiring more than one license through this  
3 bidding process in each calendar year.

4 In addition, this bill establishes two procedures for transferring  
5 an inactive plenary retail consumption license to a different  
6 municipality. Under current law, an inactive plenary retail  
7 consumption license is a license to sell alcoholic beverages for on  
8 premises consumption that is not being used at an open and  
9 operating licensed premises. A licensee is required to place the  
10 license on “inactive status” when the licensed business ceases  
11 operation and the license continues to be held by the licensee of  
12 record.

13 Under this bill, a license that remains inactive for two years is to  
14 expire. Prior to the expiration of the license, the license holder may  
15 apply to the governing body of the host municipality that issued the  
16 license and a contiguous neighboring municipality to use the license  
17 in connection with a premises located in the contiguous receiving  
18 municipality. An inactive plenary retail consumption license used  
19 in a contiguous receiving municipality only would be used as part  
20 of an economic redevelopment plan or in connection with a  
21 premises located within a redevelopment, improvement, or  
22 revitalization area. The bill requires the transferred license to  
23 remain in the contiguous receiving municipality and prohibits the  
24 transfer of license to any other municipality. Under the bill, the  
25 issuing and receiving municipalities are to submit to the director  
26 notice of the intent to transfer a license at least 90 days prior to the  
27 transfer. The bill requires the issuing and receiving municipalities  
28 to adopt by majority vote identical resolutions authorizing the  
29 transfer of the license. The identical resolutions are to establish the  
30 license transfer fee agreed upon by both municipal governing  
31 bodies. A receiving municipality that acquires a license would be  
32 entitled to offer the license at public sale in accordance with current  
33 law. A license issued by a receiving municipality that is not  
34 actively used in connection with the operation of a premises within  
35 two years of the transfer date would expire and not be reissued by  
36 the receiving municipality. The bill prohibits a receiving  
37 contiguous municipality from acquiring more than one license  
38 through this transfer process in each calendar year.

39 Finally, this bill allows a receiving municipality that has reached  
40 the license population limitation established under current law to  
41 issue a request for proposal (RFP) to acquire an inactive plenary  
42 retail consumption license from any license holder in this State. The  
43 bill requires the receiving municipality to issue the license for use  
44 in connection with a premises as part of economic redevelopment  
45 plan or a redevelopment, improvement, or revitalization area. The  
46 RFP would specify a time and date after which no further  
47 applications from license holders will be accepted. The  
48 municipality is to publish the RFP in a newspaper circulating

1 generally throughout the State by not less than two insertions, one  
2 week apart, the second of which is to be made not less than 30 days  
3 prior to the time and date specified in the notice as the time and  
4 date after which no further applications will be accepted. In  
5 addition, the request for proposal is to be published by the  
6 governing body on the official Internet website of the receiving  
7 municipality. The RFP is to require that all bids to be sealed and  
8 remain confidential to other bidders. The holder of an inactive  
9 plenary retail consumption license is to apply for permission to  
10 transfer the inactive plenary retail consumption license from the  
11 host municipality prior to submitting a bid in response to the RFP.  
12 The host municipality may approve the application by resolution. The  
13 host municipality would be prohibited from requiring the applicant  
14 to disclose the location of the proposed licensed premises.

15 After the receiving municipality accepts a successful bid, the  
16 host and receiving municipality are to submit to the ABC director  
17 notice of the intent to transfer a license at least 90 days prior to the  
18 transfer.

19 The bill requires the issuing and receiving municipalities to adopt  
20 by majority vote identical resolutions authorizing the transfer of the  
21 license. The identical resolutions are to establish the license  
22 transfer fee agreed upon by both municipal governing bodies. The  
23 bill requires a license that is not actively used within two years of  
24 issuance date to expire. A receiving municipality that issued the  
25 RFP would be prohibited from acquiring more than one license  
26 through this process in each calendar year.

27 The plenary retail consumption licenses transferred to or  
28 acquired by a receiving municipality under the bill's provisions  
29 would not be included in the population formula used to issue new  
30 licenses.